

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Application No. 09/425,436)	<i>Confirmation No. 9564</i>
)	
Filed:	October 22, 1999)	
)	
Applicants:	Richard Robert CAPPADONA et al.)	
)	
Title:	LID FOR COOKING PAN)	
)	
Art Unit:	1761)	
)	
Examiner:	Drew E. BECKER)	
)	
)	
Attorney Docket:	7015/66635)	
)	
Customer No.:	22242)	

DECLARATION OF MR. THOMAS VERRETTE

I, THOMAS VERRETTE, declare as follows:

1. I am the Chief Financial Officer of Carico International Inc. ("Carico"), which is the Assignee of the above-identified application. I have personal knowledge of the matters stated herein.

2. Carico sells waterless cookware under the trademark ULTRA TECH using direct sales to individual homes and businesses. Carico does not advertise its products, but instead relies on word-of-mouth to promote its products.

3. In 1998 and 1999, Carico's waterless cookware sales were about \$10.7 million and about \$10.2 million, respectively.

4. In 2000, Carico introduced the inventive waterless cookware under the ULTRA TECH trademark as illustrated in FIGS. 1 to 4 below. As shown in the Figures, the inventive features of the ULTRA TECH cookware included a thermometer removable from a knob body on the cookware lid where the thermometer included a probe extending downward through an aperture in the lid. The thermometer was rapidly response to temperature changes within the cooking vessel and was selectively removable from the knob body for cleaning. On information and belief, all claims of pending US Patent application number 09/425,436 cover the ULTRA TECH cookware as shown in FIGS. 1 to 4. The waterless cookware sold in 1998 and 1999 did not have such inventive features.

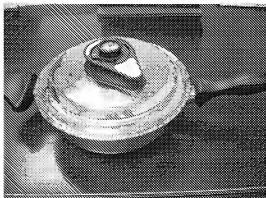


FIG. 1

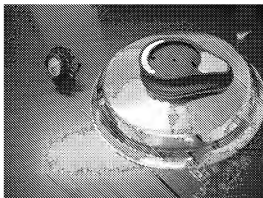


FIG. 2

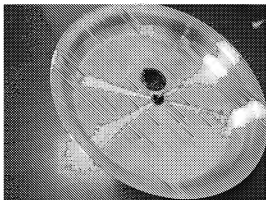


FIG. 3

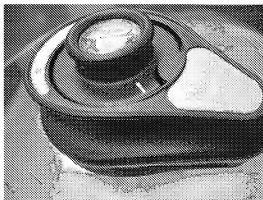


FIG. 4

5. In 2000, Carico's sales of ULTRA TECH cookware including the inventive features were about 15 million—an increase of about 147 percent and about 140 percent over comparable sales in 1999 and 1998 (not including the inventive features), respectively. The chart below shows Carico's sales growth of waterless cookware.

Table 1: Sales Growth of ULTRA TECH cookware

Year	Covered By Claims	Product Sales (\$)
1998	No	~10.7 Million
1999	No	~10.2 Million
2000	Yes	~\$15 Million

6. Since introduction of the inventive waterless cookware in 2000, Carico's sales of waterless cookware have increased about 169 percent between 2000 and 2007.

7. Over the same time frame, the overall direct selling market has shown only moderate growth. Carico is a member of the Direct Selling Association ("DSA"). The DSA publishes yearly market reports such as those attached in Exhibit A. I believe these market reports to be generally reliable and accurate.

8. As shown in the reports in Exhibit A, between 1999 and 2000, the overall direct selling market increased only about 4 percent. As stated above, Carico's sales of waterless cookware exhibited an increase of about 147 percent in the same time frame.

9. Carico's revenue per sales person has also increased between 1998 and 2007. The average revenue per salesperson for cookware has increased from about \$600 per sale in 1998 to about \$1,000 per sale in 2007.

10. In 2000, when the inventive ULTRA TECH waterless cookware was first introduced, it is my understanding that Carico also did not undertake any extraneous business events to promote this product other than standard promotional efforts employed within Carico's normal course of business in the direct selling market. As stated above, Carico does not advertise this product, but relies on direct selling and word-of-mouth. Thus, the increase in sales was not due to extra advertising or promotions on part of Carico.

11. Upon information and belief, prior to the introduction of the inventive waterless cookware, I estimate Carico had a cookware market share of about 1 percent in 1999. After introduction of inventive waterless cookware, I estimate Carico's market share has increased to about 3 percent in 2007. Thus, the increase in sales was not due to Carico's position in the market.

12. Based on the information above, it is my opinion that the increase in sales of the ULTRA TECH waterless cookware are due to the inventive features because that is the major difference between the waterless cookware sold in 1999 and that sold in 2000 and because Carico did not advertise, increase promotional efforts, or undertake other non-standard business efforts in selling the inventive cookware.

Richard Robert CAPPADONA et al.
Application No. 09/425,436
DECLARATION OF MR. THOMAS VERRETTE

13. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity or enforceability of the application or any patent issued thereon.

Dated: _____

1/31/08

477472



Thomas Verrette

Richard Robert CAPPADONA et al.
Application No. 09/425,436
DECLARATION OF MR. THOMAS VERRETTE

EXHIBIT A



FACT SHEET

U.S. DIRECT SELLING IN 2006

2006 U.S. Retail Sales \$32.18 Billion

Percent of Sales by Major Product Group

Clothing & accessories/personal care	33.7
Home & family care/home durables	26.7
Wellness (weight loss products, vitamins, etc.)	20.3
Services/other	15.1
Leisure/educational (books, videos, toys, etc.)	4.2

Percent of Sales by Location/Medium

Face-to-face selling	75.2
In the home	66.9
In the work place	3.9
At a temporary location (fair, exhibition, etc.)	3.8
Other locations (salesperson's office, etc.)	0.6
Remote selling	24.8
Phone	12.8
Internet (World Wide Web, e-mail)	11.6
Other (mail, fax, etc.)	0.4

Percent of Sales by Census Region

South	33.2
West	26.0
Midwest	24.9
Northeast	15.9

Percent of Sales by Sales Strategy

Individual/person-to-person	67.1
Party plan/group	28.9
Customer placing order directly with firm (in follow-up to a prior face-to-face solicitation)	3.4
Other	0.6

Percent of Sales, Direct Sellers and Firms by Type of Company Compensation Plan*

	Percent of		
	Sales	Sellers	Firms
Multilevel	96.7	97.9	95.1
Single level	3.3	2.1	4.9

2006 U.S. Direct Sellers 15.2 Million

Percent of Direct Sellers by Distributorship Type

One-person distributorship	86.6
Two-person distributorship	7.0
Multi-person distributorship	6.4

Percent of Direct Sellers by Hours Worked

Full-time (30 or more hours per week)	10.1
Part-time	89.9

Percent of Direct Sellers by Gender

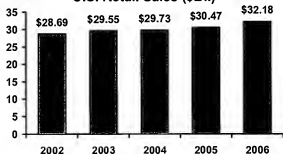
Female	85.2
Male	14.8

Source: Growth & Outlook Survey Report: U.S. Direct Selling in 2006 and other sources.

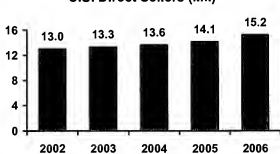
*A direct selling company may use a multilevel plan or a single level plan or both to compensate direct sellers. A direct selling company offering a multilevel compensation plan is classified as multilevel even if it offers a single-level plan as well.

To view graphic depictions of these findings, please go to:
<http://www.dsa.org/pubs/numbers/>

U.S. Retail Sales (\$Bil)



U.S. Direct Sellers (Mil)



For further information contact Amy M. Robinson, VP of Communications & Media Relations, or Eileen Creamer O'Neill, VP of Research Services.

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FACT SHEET

U.S. DIRECT SELLING IN 2005

2005 U.S. Retail Sales \$30.47 Billion

Percent of Sales by Major Product Group

Personal care (cosmetics, jewelry, etc.)	33.6
Home/family care (cookware, appliances, etc.)	26.8
Wellness (weight loss products, vitamins, etc.)	19.1
Services/other	15.5
Leisure/educational (books, videos, toys, etc.)	5.0

Percent of Sales by Location/Medium

Face-to-face selling	73.3
In the home	64.9
In the work place	3.8
At a temporary location (fair, exhibition, etc.)	4.1
Other locations (salesperson's office, etc.)	0.5
Remote selling	26.7
Phone	14.7
Internet (World Wide Web, e-mail)	11.7
Other (mail, fax, etc.)	0.3

Percent of Sales by Census Region

South	33.4
West	25.7
Midwest	25.2
Northeast	15.7

Percent of Sales by Sales Strategy

Individual/person-to-person	68.8
Party plan/group	27.2
Customer placing order directly with firm (in follow-up to a prior face-to-face solicitation)	3.2
Other	0.8

Compensation Structure**

(Multilevel firms vs. single-level firms)

Percent of firms	92.6/7.4
Percent of sales dollars	96.6/3.4
Percent of direct sellers	97.2/2.8

2005 U.S. Direct Sellers 14.1 Million

Percent of Direct Sellers by Distributorship Type

One-person distributorship	82.1
Two-person distributorship	11.4
Multi-person distributorship	6.5

Percent of Direct Sellers by Hours Worked

Full-time (30 or more hours per week)	12.7
Part-time	87.3

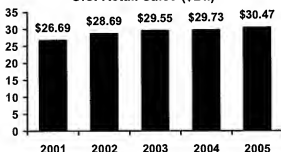
Percent of Direct Sellers by Gender

Female	82.2
Male	17.8

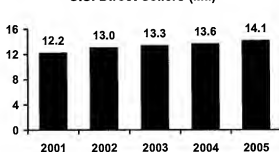
**2005 statistics on compensation structure are not comparable to statistics from previous years due to a change in the definition of a multilevel firm. Starting with 2005 data, a direct selling firm offering direct sellers a multilevel compensation plan is classified as a multilevel firm even if a single-level compensation plan is offered as well.

Source: 2005 Direct Selling Growth & Outlook Survey and other sources.

U.S. Retail Sales (\$Bil)



U.S. Direct Sellers (Mil)



For further information contact Amy M. Robinson, VP of Communications & Media Relations, or Eileen Creamer O'Neill, VP of Research Services, or visit our website at www.dsa.org.

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FACT SHEET

U.S. DIRECT SELLING IN 2004

2004 U.S. Retail Sales \$29.73 Billion

Percent of Sales by Major Product Group

Personal care (cosmetics, jewelry, etc.)	30.8
Home/family care (cookware, appliances, etc.)	30.5
Wellness (weight loss products, vitamins, etc.)	16.1
Services/other	14.3
Leisure/educational (books, videos, toys, etc.)	8.3

Percent of Sales by Location/Medium**

Face-to-face selling	73.1
In the home	61.9
In the work place	6.7
At a temporary location (fair, exhibition, etc.)	3.9
Other locations (salesperson's office, etc.)	0.6
Remote selling	26.9
Phone	15.6
Internet (World Wide Web, e-mail)	10.8
Other (mail, fax, etc.)	0.5

Percent of Sales by Census Region**

South	36.0
West	24.8
Midwest	23.1
Northeast	16.1

Percent of Sales by Sales Strategy

Individual/person-to-person	69.8
Party plan/group	27.8
Customer placing order directly with firm (in follow-up to a prior face-to-face solicitation)	1.6
Other	0.8

Compensation Structure

(Multilevel vs. single level)

Percent of firms	84.3/15.7
Percent of sales dollars	76.1/23.9
Percent of direct sellers	82.7/17.3

2004 U.S. Direct Sellers 13.6 Million

Percent of Direct Sellers by Work Status**

Independent contractors	99.9
Employees	0.1

Percent of Direct Sellers by Distributorship

Type**

One-person distributorship--female	71.9
One-person distributorship--male	16.7
Two-person distributorship	10.3
Multi-person distributorship	1.1

Percent of Direct Sellers by Hours Worked**

Fewer than 30 hours per week	85.1
30-39 hours per week	7.6
40 hours or more per week	7.3

Percent of Direct Sellers by Gender**

Female	79.9
Male	20.1

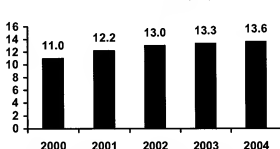
**Data for 2003.

Sources: 2004 Growth & Outlook Survey, 2005 USDA SEIS Survey of Direct Selling Organizations, and other DSA and public sources.

U.S. Retail Sales (\$Bil)



U.S. Direct Sellers (Mil)



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FACT SHEET

2004 DIRECT SELLING GROWTH & OUTLOOK SURVEY

2003 U.S. Retail Sales \$29.55 Billion

Percent of Sales by Major Product Group

Home/family care (cookware, appliances, etc.)	32.0
Personal care (cosmetics, jewelry, etc.)	29.4
Services/other	15.4
Wellness (weight loss products, vitamins, etc.)	15.3
Leisure/educational (books, videos, toys, etc.)	7.9

Percent of Sales by Location/Medium

Face-to-face selling	73.1
In the home	61.9
In the work place	6.7
At a temporary location (fair, exhibition, etc.)	3.9
Other locations (salesperson's office, etc.)	0.6
Remote selling	26.9
Phone	15.6
Internet (World Wide Web, e-mail)	10.8
Other (mail, fax, etc.)	0.5

Percent of Sales by Census Region

South	36.0
West	24.8
Midwest	23.1
Northeast	16.1

Percent of Sales by Sales Strategy

Individual/person-to-person	69.0
Party plan/group	28.5
Customer placing order directly with firm (in follow-up to a prior face-to-face solicitation)	1.7
Other	0.8

Compensation Structure

(Multilevel vs. single level)

Percent of firms	81.9/18.1
Percent of sales dollars	75.7/24.3
Percent of salespeople	82.4/17.6

2003 U.S. Salespeople 13.3 Million

Percent of Salespeople by Work Status

Independent contractors	99.9
Employees	0.1

Percent of Salespeople by Distributorship Type

One-person distributorship--female	71.9
One-person distributorship--male	16.7
Two-person distributorship	10.3
Multi-person distributorship	1.1

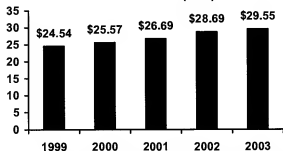
Percent of Salespeople by Hours Worked

Fewer than 30 hours per week	85.1
30-39 hours per week	7.6
40 hours or more per week	7.3

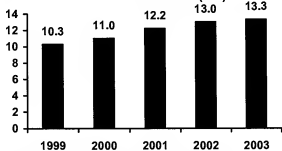
Percent of Salespeople by Gender

Female	79.9
Male	20.1

U.S. Retail Sales (\$Bil)



U.S. Salesforce Size (Mil)



For further information contact Amy Robinson, director-communications & media relations, or Eileen Creamer O'Neill, vp-new business & research services, or visit our website at www.dsa.org.

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